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EXAMINER	
CHIN, PETER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/769,462
Filing Date: January 26, 2001
Appellant(s): SCHERB ET AL.

Neil F. Greenblum
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 17,2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,556,511	Bluhm et al	9-1996
WO 9635018	Kamps et al	11-1996

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-10, 13-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamps et al (WO 9635018) in view of Schiel (6,004,429) or Bluhm et al (5,556,511).

Kamps et al shows a process for making tissue paper having a decorative pattern of differing basis weight using a decorative pattern on a forming fabric. The decorative pattern is sewn, woven or formed by any convenient means into the forming fabric. The pattern on the forming fabric creates areas of slower drainage, i.e., the forming fabric has areas of differing permeabilities. Figures 4 and 5 show wet press process for making tissue paper.

Figure 5 of Kamps et al shows a twin wire crescent former. A furnish having a 0.2% by weight consistency is dewatered and a wet web is formed between the gap defined by forming fabric 13, which bears the decorative pattern and dewatering felt 12. The web is subsequently wet pressed at press roll 41 and Yankee dryer 40.
Schiel shows a process for making wet pressed tissue paper that uses a crescent former of the type disclosed by Kamps et al. Schiel extended nip press design advantageously achieves more efficient dewatering and reduces the size of the paper machine, columns 1 and 2. The web is transferred to the Yankee by press shoe roll 28 which in combination with the Yankee define an extended press nip having a length 50-

120 mm. Schiel in the last paragraph of column 4 spanning column 5 teaches that it is advantageous that the main press, the extended nip press roll 28 , which presses the web against drying cylinder 60, exert a maximum pressure of between 2.5 and 5 MPa for high production capacity.

Similarly, Bluhm et al teaches that it is advantageous to transfer the wet web to the heated creping roll using a press shoe. Improved bulk and softness is realized by this process.

Thus, for the advantageous taught by Schiel and Bluhm et al, it would have been obvious to employ an extended nip press having a nip length between 50-120 mm arrangement in place of roll 41 Kamps et al in manner taught by Schiel or Bluhm et al. In regard to the method claims: It would also have been obvious to employ a pressure of 2.5 MPa in light of the Schiel disclosure. The 2.5 MPa pressure taught by Schiel falls within the ambit of "about" 2 MPa recited in the claims. As noted in the Final Rejection, mailed on October 16,2003, there is no clear guidance in the specification as to what latitude "about" encompasses other than what is provided in the examples of the invention. In this regard, one inventive embodiment disclosed on page 6 of the instant disclosure contemplates a pressure of 3.3 MPa. Therefore it is reasonable to conclude that "about" 2 MPa includes 3.3 MPa. In regard to the apparatus claims, this limitation imparts no further patentable structure to the claims as it is merely a method of operation limitation.

In regard to claims 17,18,33 and 34, Kamps et al discloses that the decorative pattern is created by weaving and thus, it would have been obvious to employ well

known methods such as the use of filler yarns for achieving the differing permeabilities. In any case the forming fabric per se is well known as acknowledged on pages 9 and 14 of the present specification.

(11) Response to Argument

It is alleged that there is no teaching or disclosure in Kamps of a forming wire having zones of differing permeability. This is not convincing for reasons given above.

It is urged that there is no reason and/or motivation to combine Schiel or Bluhm et al with Kamps. This is not convincing. The reason and motivation for combining the references are found in each of Schiel and Bluhm et al and have been stated above.

It is argued that there is no reason to expect that the use of extended nip press would preserve the pattern in the web. Kamps uses a roll press to press the already patterned wet web against the dryer and still achieves and obtains a patterned paper web. There is no substance to this argument.

It is urged that "about" 2 MPa would not encompass 25 MPa of the prior art since that would be beyond engineering tolerance. That might be so in the absence of further guidance in the specification. Since patentees or applicants under the current law are permitted to be their own lexicographer, one must look in the disclosure for guidance as to the meaning of terms. Clearly, 3.3 MPa is within the ambit of the invention and hence it is within the ambit of "about" 2 MPa.

The allegations made that the prior art does not show twin wire, crescent former, felt and other elements are not shown by the prior art are without basis for reasons already noted in the above rejection.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Peter Chin
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August 6, 2004

Conferees

SPE, AU 1731

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